

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3515 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

KARSANBHAIMULJIBHAI MOR

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Petitioner
MR JR NANAVATI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/07/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the parties.
2. The learned counsel for the respondent makes statement that the suits filed by two other tax payers,

being Civil Suit Nos.348 and 359 of 1989 are pending in the court of Civil Judge (S.D), Bhavnagar. In their suits, identical reliefs have been claimed as what it is claimed by the petitioner in this Special Civil Application. On this point, there is no dispute between the learned counsel for the parties.

3. The learned counsel for the petitioner submitted that this Court has granted interim relief in favour of the petitioner. Meaning thereby, the Corporation has been restrained from approving of the resolution dated 27th March, 1989 passed by the Standing Committee, on this fact also the learned counsel for the parties are not at variance.

4. Shri Hathi contended that the petitioner will join there in either of the suits aforesaid, but this interim relief may be ordered to be continued pending those suits. In respect of the subject matter, when two other tax payers have already filed the suits, I fail to see any justification by the petitioner to approach this court in the matter. It is a public interest matter and when two tax payers have taken the same to the Court to open another front by the petitioner deserves to be deprecated. It is a matter which can be examined more effectively in the civil suit than in the Special Civil Application where the tax payer is making the grievance against the action of the Corporation to send its counsels for study tour to abroad. In their submissions, this is nothing but only at the cost of the civic facilities which are to be provided to the residents of the Corporation limits. In fact, what the learned counsel for the petitioner submitted, it is unnecessary burden on the public at large.

5. Whether, what the petitioner in this petition and the two other tax payers in the suits are making grievances, are to be accepted or not, it is not concern of the Court today. The act of the petitioner in this matter to file this petition is not advisable in the facts of this case. It is the duty of every litigant as well as member of the Bar to see that as far as possible the Courts are not being burdened with unavoidable litigations. Here, when the two other tax payers have already filed the suits, this petition filed by the petitioner is wholly misconceived. Instead of filing this Special Civil Application, the petitioner should have contended and satisfied for this grievance against the Corporation where two other tax payers have already approached to the Court by filing of the Civil Suits. Still, the petitioner feels that his presence is

necessary in the Court, he could have approached to the Civil Court for his impleadment as a party in either of or both the suits. In the facts of this case, this Special Civil Application is wholly misconceived and in fact, an attempt on the part of the petitioner to burden the Court with an avoidable litigation.

6. As a result of the aforesaid discussion, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. However, the petitioner is free to apply before the Civil Court for his impleadment as a plaintiff or defendant in the suit. As he is only concerned to provide assistance to the Court to decide the matter, it is expected of the Civil Court, where the suits are pending, that where the petitioner apply for his impleadment as a plaintiff or defendant, that application may be decided accordingly. Whatever observations made or findings recorded in this judgement are only with reference to the decision in the matter and not on the merits of the matter which is to be adjudicated and decided by the Court concerned in the two civil suits.

(S.K. Keshote, J.)
(kamlesh)